

RemarksApplication Status and Disposition of Claims

This Amendment responds to the Office Action mailed December 30, 2009. In the Action, the Office considered claims 1-5.

With this Amendment, Applicants amend claims 3-5, cancel claims 1 and 2, and add claim 10. Claims 3 and 4 are rewritten in independent form and incorporate the elements of claim 1. Claim 5 has been amended to depend from claim 3. Newly added claim 10 recites the claim language of claim 5 except that claim 10 depends from claim 4. This amendment finds support in the specification and the previously filed claims. No new matter has been added.

Claim Objections

The Action objects to claims 3 and 4 for being dependent on rejected claims. The Action indicates that claim 3 and 4 are free of art based rejections.

In response, to advance prosecution and without expressing agreement or acquiescence to the propriety to the objection, Applicants note that claims 3 and 4 have been rewritten as independent claims. In view of the foregoing, Applicants request that the objections to claims 3 and 4 be withdrawn.

Claim Rejections Under 35 U.S.C. § 102(b)

The Action rejects claims 1 and 2 under 35 U.S.C. § 102(b) as allegedly being anticipated by Gaffney et al. (1984 Biochemistry Vol. 23, pages 5686-5691).

In response, to advance prosecution and without expressing agreement or acquiescence to the propriety to the objection, Applicants note that claims 1 and 2 have been canceled. In view of the foregoing, Applicants request that the rejection under 35 U.S.C. § 102(b) be withdrawn.

Claim Rejections Under 35 U.S.C. § 103

The Action rejects claims 1 and 5 under 35 U.S.C. § 103(a) as allegedly being unpatentable over Gaffney et al. in view of Krieg et al. (WO 1998/018810).

Applicants initially note that claims 3 and 4 were not rejected under 35 U.S.C. § 103 over Gaffney et al. in view of Krieg et al. Applicants also note that to advance prosecution and without expressing agreement or acquiescence to the propriety to the objection, claim 1 has been canceled. Furthermore, claim 5 has been amended to depend from claim 3. Applicants note that newly added claim 10 recites claim language identical to claim 5, except that claim 10 depends from claim 4.

In view of the foregoing, Applicants request that the rejection under 35 U.S.C. § 103 be withdrawn.

Claim Rejections Under 35 U.S.C. § 112, Second Paragraph

The Action rejects claim 2 under 35 U.S.C. § 112, second paragraph, for allegedly failing to particularly point out and distinctly claim the subject matter of the invention.

In response, to advance prosecution and without expressing agreement or acquiescence to the propriety to the objection, Applicants note that claim 2 has been canceled. In view of the foregoing, Applicants request that the rejection under 35 U.S.C. § 112, second paragraph be withdrawn.

CONCLUSION

In view of the foregoing remarks and amendments, Applicants respectfully request withdrawal of the objection and rejections of record and allowance of the claims. If the Examiner has any questions or wishes to discuss this application further, the Examiner is invited to telephone the undersigned at the below-listed telephone number.

The Patent and Trademark Office is hereby authorized to charge Deposit Account No. 19-0089 any fee necessary to ensure consideration of the submitted materials.

Respectfully Submitted,
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March 26, 2010
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